

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

BYRON K. RED KETTLE,)	
)	
Petitioner,)	8:13CV171
)	
v.)	
)	
STATE OF NEBRASKA,)	MEMORANDUM AND ORDER
)	
Respondent.)	
_____)	

Petitioner Byron Red Kettle ("Red Kettle") has filed a Petition for Writ of Habeas Corpus ("Petition") pursuant to 28 U.S.C. § 2254, and a Supplement to the Petition (Filing Nos. [1](#) and [8](#)). The Court has conducted an initial review of the Petition and Supplement to determine whether the claims made by Red Kettle are, when liberally construed, potentially cognizable in federal court. Title 28 U.S.C. § 2254 permits a federal court to entertain only those applications alleging that a person is in state custody in violation of the Constitution or laws or treaties of the United States. [28 U.S.C. § 2254\(a\)](#).

In Red Kettle's Petition, he challenges his conviction in the Sheridan County, Nebraska, District Court for first degree sexual assault, operating a motor vehicle to avoid arrest, and receiving or retaining stolen property. Red Kettle refers to the conviction and judgment as "void" and full of "error plainly evident from the record." (Filing No. [1](#) at CM/ECF p. 2.) However, as best as the Court can tell, Red Kettle does not set

forth any claims in his Petition or explain why the conviction and judgment are void or describe what errors are plainly evident from the record. Thus, the Court finds that Red Kettle's Petition does not present any cognizable claims for relief. However, given Red Kettle's pro se status, the Court is reluctant to dismiss the Petition without first giving him an opportunity to amend. Thus, Red Kettle will be given 30 days to file an amended petition that presents a cognizable claim for relief. Red Kettle's amended petition for writ of habeas corpus must state every ground on which he believes he is being held in violation of the Constitution, laws, or treaties of the United States. The Court encourages Red Kettle to present his grounds using a Form AO 241, Petition for Relief From a Conviction or Sentence by a Person in State Custody. The Court will direct the clerk's office to provide Red Kettle with such a form.

IT IS ORDERED:

1. Red Kettle will have 30 days from the date of this Memorandum and Order to file an amended petition for writ of habeas corpus that presents cognizable claims for relief. Failure to file an amended petition for writ of habeas corpus will result in dismissal of this matter without further notice.
2. The clerk's office is directed to set a pro se case management deadline in this case using the following text:

October 21, 2013: deadline for Red Kettle to file an amended petition for writ of habeas corpus.

3. The clerk's office is directed to send to Red Kettle the Form AO 241, Petition for Relief From a Conviction or Sentence By a Person in State Custody.

DATED this 24th day of September, 2013.

BY THE COURT:

/s/ Lyle E. Strom

LYLE E. STROM, Senior Judge
United States District Court

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